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2
3 Patrick McMahon, WSBA #18809
4 Attorney for Defendants
5 Carlson & McMahon, PLLC
6 715 Washington Street
7 P.O. Box 2965
8 Wenatchee, WA 98807-2965
9 509-662-6131
10 509-663-0679 Facsimile
11 patm@carlson-mcmahon.org

THE HONORABLE ROSANNA MALOUF PETERSON
MAY 14, 2019 AT 6:30 P.M.
WITHOUT ORAL ARGUMENT

12
13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF WASHINGTON
15

16 JOSHUA BRENT STULLER,
17 individually and on behalf of all others
18 similarly situated,

19 Plaintiff,

20 vs.

21 CHELAN COUNTY, WASHINGTON;
22 BILL LARSEN, in his official capacity
23 as Interim Director of the Chelan
24 County Regional Justice Center;
25 LESLIE CARLSON, in her official
26 capacity as the Chelan County Regional
27 Justice Center Mental Health Manager;
28 and their officers, agents, employees,
29 and successors,

30 Defendants.

NO. 2:18-cv-00178-RMP

**DECLARATION OF PATRICK
MCMAHON SUPPORTING
DEFENDANTS' MOTION TO
COMPEL PRODUCTION OF
PLAINTIFF'S HIGH SCHOOL
RECORDS**

1
2
3 I, Patrick McMahon, being first duly sworn under oath, declare that the
4 following is true and correct.
5

6 1. I am the lead defense attorney in the above-referenced matter and I
7 am authorized on behalf of my clients to submit this Declaration supporting
8 Defendants' Motion to Compel Production of Plaintiff Joshua Stuller's high
9 school and community college records.
10

11
12 2. The matters set forth in my Declaration are based on my personal
13 knowledge and I am competent to testify to the matters stated herein.
14

15 3. On February 27, 2019, Interim Director of the Chelan County
16 Regional Justice Center, Bill Larsen, propounded to Plaintiff, Joshua Brent
17 Stuller, his First Set of Interrogatories and Request for Production of
18 Documents. (See **Exhibit No. 1**).
19

20
21 4. On April 8, 2019, I contacted Plaintiff Counsel Andrew Biviano to
22 discuss that these interrogatories and request for production were past due and
23 outstanding and to discuss when we would receive answers. (See **Exhibit No. 2**).
24

25 5. During this discovery telephone conference, I was advised by
26 Plaintiff Counsel Biviano that he would not be producing his client's high school
27 records from Wenatchee High School or Westside High School, which is an
28 alternative high school in the City of Wenatchee.
29
30

1 6. I discussed with Plaintiff Counsel Biviano that the records would be
2
3 part of the overall background of the Plaintiff provided to our
4 psychiatrist/psychologist who will be selected to perform an independent
5 evaluation of the Plaintiff relating to his claim for damages.
6

7 7. I was informed by Plaintiff Counsel Biviano that I would need to do
8
9 a Motion to Compel in order to receive an Order from the Court to obtain these
10 records.
11

12 RESPECTFULLY SUBMITTED THIS 11TH day of APRIL, 2019.

13 CARLSON & McMAHON, PLLC
14

15 By /s/ Patrick McMahon
16 PATRICK MCMAHON, WSBA #18809
17 Attorney for Defendants

18 715 Washington Street / P.O. Box 2965
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23 WCRP05-02450\PLE Federal\DEC PM SUPP MTN TO COMPEL PRODUCTION OF SCHOOL RECORDS.4-11-19
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CERTIFICATION OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that on April 11, 2019, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Eastern District of Washington using the CM/ECF system which will send notification of such filing to:

Andrew S. Biviano abiviano@pt-law.com

Breean L. Beggs bbeggs@pt-law.com

Mary Elizabeth Dillon bdillon@pt-law.com

Elizabeth A Adams eadams@terrellmarshall.com

Toby James Marshall tmarshall@terrellmarshall.com

And I certify that I have mailed by United States Postal Service the foregoing to the following non CM/ECF participants:

Signed at Wenatchee, Washington on April 11, 2019.

/s/ Patrick McMahon
PATRICK MCMAHON, WSBA #18809

Patrick McMahon, WSBA #18809
Attorney for Defendants
Carlson & McMahon, PLLC
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THE HONORABLE ROSANNA MALOUF PETERSON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSHUA BRENT STULLER,
individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

CHELAN COUNTY, WASHINGTON;
BILL LARSEN, in his official capacity as
Interim Director of the Chelan County
Regional Justice Center; LESLIE
CARLSON, in her official capacity as the
Chelan County Regional Justice Center
Mental Health Manager, and their officers,
agents, employees, and successors,

Defendants.

NO. 2:18-CV-00178-RMP

**DEFENDANT BILL LARSEN,
INTERIM DIRECTOR OF
THE CHELAN COUNTY
REGIONAL JUSTICE
CENTER'S, FIRST SET OF
INTERROGATORIES AND
REQUEST FOR
PRODUCTION OF
DOCUMENTS PROPOUNDED
TO PLAINTIFF JOSHUA
BRENT STULLER**

TO: JOSHUA BRENT STULLER, Plaintiff

AND TO: ANDREW S. BIVIANO, BREEAN L. BEGGS and
MARY ELIZABETH DILLON, Attorneys for Plaintiff

DEFENDANT BILL LARSEN, INTERIM DIRECTOR OF
THE CHELAN COUNTY REGIONAL JUSTICE
CENTER'S, FIRST SET OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS
PROPOUNDED TO PLAINTIFF JOSHUA BRENT
STULLER

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EXHIBIT 1

1 AND TO: TOBY J. MARSHALL and ELIZABETH A. ADAMS, "CLASS
2 ACTION" Attorneys for Plaintiff
3

4 I.

5 **DEFINITIONS AND PROCEDURES**

6 **A. PROCEDURES.**

7 Pursuant to Federal Rules of Civil Procedure, DEFENDANT BILL LARSEN,
8 Interim Director of the Chelan County Regional Justice Center, requests that
9 Plaintiff answer the following Interrogatories and respond to the following Requests
10 for Production within thirty (30) days after service in accordance with FRCP 33 and
11 34, to the law offices of Carlson & McMahon, PLLC, 715 Washington Street, P.O.
12 Box 2965, Wenatchee, WA 98807-2965.
13
14

15 **B. SCOPE OF ANSWERS.**

16 By use of the pronoun "you" or the noun "plaintiff" or "plaintiffs" it is intended that
17 the answers are to include all information known to the persons to whom the
18 Interrogatories are directed, their officers and employees, agents, attorneys and
19 investigators.
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24 **C. DOCUMENT.**

25 As used herein, the word "document" shall mean the original and any copy,
26 regardless of origin or location of any book, pamphlet, periodical, letter,
27 memorandum, telegram, report, record, study, handwritten note, map, drawing,
28
29

30 DEFENDANT BILL LARSEN, INTERIM DIRECTOR OF
THE CHELAN COUNTY REGIONAL JUSTICE
CENTER'S, FIRST SET OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS
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1 working paper, chart, paper, graph, index, tape, data sheet or data processing card,
2 or any other written, recorded, transcribed, punched, taped, filmed, photographic or
3 graphic matter, however produced or reproduced, to which you have or have had
4 access.
5

6
7 **D. IDENTIFY OR IDENTITY.**
8

9 As used herein, "identify" or "identity" used in reference to an individual person
10 means to state his full name and present address, his present or last-known position
11 and business affiliation, and his position and business affiliation at the time in
12 question. "Identify" or "identity" when used in reference to a document means to
13 state the date and author, type of document (e.g., letter, memorandum, telegram,
14 chart, etc.) or some other means of identifying it, and its present location or
15 custodian. If any such document was, but is no longer in your possession or subject
16 to your control, state what disposition was made of it.
17
18
19

20
21 **E. ADDITIONAL DEFINITIONS.**

22 The phrases "the occurrence," "the alleged occurrence," "this occurrence," "the
23 injuries," and "incident" refer to the incident which is the subject matter of this
24 lawsuit, as described in Plaintiff's Complaint herein.
25
26

27 **F. DUTY TO SUPPLEMENT.**
28
29

1 In accordance with FRCP 26, these Interrogatories and Requests for Production
2 of Documents are continuing in nature and it is your duty to seasonably
3 supplement your answers and responses thereto as required by the Federal Rules
4 of Civil Procedure, and the Local Rules for the Eastern District of Washington.
5
6

7 **INTERROGATORIES**

8
9 **INTERROGATORY NO. 1:** Since your Conditional Release issued on
10 December 19, 2017, pursuant to cause number 15-1-00691-7, provide any/all
11 entities that have treated you for chemical dependency up to and including the
12 present time, providing the entity's name, address, and dates of treatment.

13 **ANSWER:**
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20 **INTERROGATORY NO. 2:** Identify any treatment counselor or person
21 providing treatment associated with the entity identified in the preceding
22 interrogatory, providing the person's name, title, and professional address.

23 **ANSWER:**
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REQUEST FOR PRODUCTION NO. 1: Produce any/all records for the entities/persons identified in the preceding interrogatories.

RESPONSE:

INTERROGATORY NO. 3: Are you a high school graduate? If yes, provide the name and address of the high school and the year of graduation.

ANSWER:

REQUEST FOR PRODUCTION NO. 2: Produce copies of your high school transcripts for the educational institution identified in the preceding interrogatory.

RESPONSE:

1 **INTERROGATORY NO. 4:** State any formal education or technical
2 training you have undertaken since graduation from high school, providing the
3 name, address, and years of attendance for each entity identified.

4 **ANSWER:**

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10 **REQUEST FOR PRODUCTION NO. 3:** Produce copies of any/all
11 transcripts from the educational institution or trade school identified in the
12 preceding interrogatory.

13 **RESPONSE:**

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19 **INTERROGATORY NO. 5:** Provide a listing of all jobs you have held
20 since the age of eighteen (18), providing the name, address, and employer identified
21 as well as the periods of employment for each employer identified.

22 **ANSWER:**

1 **INTERROGATORY NO. 6:** Since being provided Conditional Release,
2 identify any/all jobs/employers you have made applications with, providing the
3 name and address of any prospective employer, the occupation applied for and the
4 date of application.

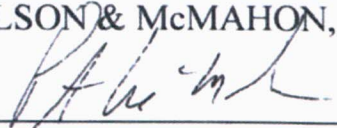
5 **ANSWER:**

6
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9
10 **INTERROGATORY NO. 7:** Set forth the number of scheduled Alcoholics
11 Anonymous meetings you have missed or were absent from and provide the date
12 and reason for the absence.

13 **ANSWER:**

14
15
16
17
18
19 DATED THIS 27 day of February, 2019.

20
21 CARLSON & McMAHON, PLLC

22 By: 
23 PATRICK McMAHON, WSBA #18809
24 Attorney for Defendant Bill Larsen, et al.

25 715 Washington Street
26 P.O. Box 2965
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30 DEFENDANT BILL LARSEN, INTERIM DIRECTOR OF
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CENTER'S, FIRST SET OF INTERROGATORIES AND
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STATE OF WASHINGTON)
) ss.
County of _____)

JOSHUA BRENT STULLER, being first duly sworn on oath, deposes and says: That he is the Plaintiff in the above-entitled matter. That he has read the foregoing Answers to Interrogatories and Responses to the Requests for Production of Documents, know the contents thereof and believe the same to be true and correct.

JOSHUA BRENT STULLER, Plaintiff

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2019 by JOSHUA BRENT STULLER.

Typed/Printed Name _____
NOTARY PUBLIC, State of Washington
My Commission Expires: _____

Pursuant to FRCP 26(g), I, ANDREW S. BIVIANO, certify that I am the attorney for the party/ies answering discovery requests; that I have read the discovery requests propounded to plaintiff(s) and the answers and objections, if any, thereto, know the contents thereof and believe the same to be true.

ANDREW S. BIVIANO, WSBA #38086
Attorney for Plaintiff

WCRP05-02450\PLE Federal\LARSEN'S 1st Rags & RFP to P 2-27-19

DEFENDANT BILL LARSEN, INTERIM DIRECTOR OF
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CERTIFICATION OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that on February 27, 2019, I mailed the foregoing document via U.S. Mail and/or Email to:

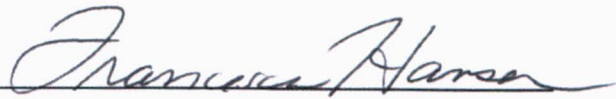
Andrew S. Biviano / Breean L. Beggs / Mary Elizabeth Dillon
Paukert & Troppmann, PLLC
522 W. Riverside, Suite 560
Spokane WA 99201

abiviano@pt-law.com; bbeggs@pt-law.com; bdillon@pt-law.com

Toby J. Marshall / Elizabeth A. Adams
TERRELL MARSHALL LAW GROUP PLLC
936 North 34th Street, Suite 300
Seattle, Washington 98103

tmarshall@terrellmarshall.com; eadams@terrellmarshall.com

Signed at Wenatchee, Washington on February 27, 2019.


Francesca Hansen, Legal Assistant

DEFENDANT BILL LARSEN, INTERIM DIRECTOR OF
THE CHELAN COUNTY REGIONAL JUSTICE
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Carlson & McMahon, PLLC

ATTORNEYS AT LAW

715 Washington Street
Post Office Box 2965
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Telephone: (509) 662-6131 Facsimile: (509) 663-0679

Patrick McMahon

David L. Force

Retired
Larry Carlson

VIA EMAIL and U.S. MAIL

April 8, 2019

Andrew S. Biviano
Paukert & Troppmann, PLLC
522 W. Riverside, Suite 560
Spokane WA 99201

Re: Stuller v. Chelan Co., et al.
United States District Court for the Eastern District
Of Washington Cause No. 2:18-cv-00178-RMP
- ***Discovery Telephone Conference***

Dear Andrew:

This will confirm our telephone conference on April 8, 2019, regarding outstanding discovery in the above-referenced matter. Initially, thank you for taking time out of your schedule to discuss the discovery issues with my office.

First, your legal assistant will resend the disc with the attachments to our Request for Production contained in Chelan County's First Set of Interrogatories and Requests for Production of Documents. This will also confirm that you are still waiting to receive copies of medical records from the providers identified in Interrogatory No. 1 to our first set of discovery requests. It will be appreciated if you can forward whatever records you have received to date and provide those that come in at your earliest convenience.

Next, this letter will confirm our discussion regarding your reluctance to provide Joshua Stuller's school records. Specifically, I have requested his high school transcripts from Wenatchee High School and West Side High School, as well as any transcripts from Shoreline Community College. The specific requests for these documents were made in Defendant Bill Larsen's Request for Production of Documents sent to your office on February 27, 2019. The formal answers and documents are late and I assume they will be forthcoming.

EXHIBIT 2

8

Andrew S. Biviano
Paukert & Troppmann, PLLC
April 8, 2019
Page 2 of 2

Nevertheless, given your statement that you are refusing to provide the educational records, I will note the matter on for a discovery conference with the court, based on the position taken during our discovery conference today.

Again, thank you for forwarding the discovery disc and any records you have collected up to the present time.

Sincerely,

Dictated but not signed to avoid delay.

PATRICK MCMAHON

PM:fh

cc: Doug Shae (via email)
Susan Hinkle (via email)
Lynda Bishop (via email)

WCRP05-02450\LTR\BIVIANO CR 26(i) Teleconference Follow Up 4-8-19